

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Levy(F)	Team: Team # 2	CCRB Case #: 201213240	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 10/11/2012 6:45 PM	Location of Incident: 1160 East 229th Street; 47th Precinct stationhouse	Precinct: 47	18 Mo. SOL 4/11/2014	EO SOL 4/11/2014	
Date/Time CV Reported Thu, 10/11/2012 7:48 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/12/2012 10:15 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Orvin Feliciano	22257	942855	PSA 8
2. POM Joshua Valdez	15354	947565	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Pablo Polanco	27550	944148	PSA 8
2. LT Jose Bujosa	00000	902646	047 PCT
3. POM Stephen Russo	01734	939393	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Orvin Feliciano	Discourtesy: At 1160 East 229th Street in the Bronx and at the 47th Precinct stationhouse, PO Orvin Feliciano spoke discourteously to § 87(2)(b)	
B.POM Orvin Feliciano	Force: At the 47th Precinct stationhouse, PO Orvin Feliciano used physical force against § 87(2)(b)	
C.POM Joshua Valdez	Discourtesy: At the 47th Precinct stationhouse, PO Joshua Valdez spoke discourteously to § 87(2)(b)	
D.POM Joshua Valdez	Force: At the 47th Precinct stationhouse, PO Joshua Valdez used physical force against § 87(2)(b)	

Case Summary

On October 11, 2012, § 87(2)(b) filed this complaint with IAB by telephone (encl. 3A-B). It was received at the CCRB via log number 12-54328 on October 17, 2012. On October 12, 2012, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System on behalf of § 87(2)(b) her son (encl. 4A-C). On October 11, 2012, PO Orvin Feliciano and PO Pablo Polanco of PSA8 stopped § 87(2)(b) outside of 1160 East 229th Street in the Bronx. The following allegations resulted:

- **Allegation A – Discourtesy: At 1160 East 229th Street in the Bronx, en route to the 47th Precinct stationhouse, and at the 47th Precinct stationhouse, PO Orvin Feliciano spoke discourteously to § 87(2)(b)**
- **Allegation B – Force: At the 47th Precinct stationhouse, PO Orvin Feliciano used physical force against § 87(2)(b) § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation C – Discourtesy: At the 47th Precinct stationhouse, PO Joshua Valdez spoke discourteously to § 87(2)(b) § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(b)
- **Allegation D – Force: At the 47th Precinct stationhouse, PO Joshua Valdez used physical force against § 87(2)(b) § 87(2)(i)**
§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *at the time of the incident, is a § 87(2)(b)*
§ 87(2)(b). *At the time of the interview, he was*
§ 87(2)(b)

Video of Incident at 1160 East 229th Street (encl. 9A-D)

§ 87(2)(b) provided video of the part of the incident that occurred at 1160 East 229th Street, in the Bronx, that was taken on his cell phone by an unidentified friend to whom he gave his phone.

§ 87(2)(b) was in handcuffs being held by PO Orvin Feliciano and PO Pablo Polanco. A male friend of § 87(2)(b) took § 87(2)(b)'s backpack to the rear of marked police vehicle 9052. PO Feliciano placed § 87(2)(b) in the vehicle. § 87(2)(b) did not have any injuries to his lip.

Another man said that this was in front of § 87(2)(b)'s building and that § 87(2)(b) had not done anything. A woman stated that § 87(2)(b) and others had just been sitting on the bench and that the officers should not have talked to § 87(2)(b) like “that.” A man said that they had just been sitting on the bench and there was no reason for the officers to “act like a bitch.”

PO Feliciano got in the driver’s seat and PO Polanco walked around the rear of the vehicle to get to the passenger’s side. The woman said that the officers come around always on Tuesdays and Thursdays and a man stated that the officers would always “fuck” with them. A man stated that the officers cursed at § 87(2)(b) first prior to the civilians cursing at the officers. The woman said that they would not be cursing at the officers if the officers had not cursed at them.

IAB Intake CD and Statements to IAB

On October 11, 2012, § 87(2)(b) called IAB and PO Santos of IAB called back for additional information (encl. 5A-B). On October 12, 2012, Sgt. Mensch and Det. Honore interviewed § 87(2)(b) at 1160 East 229th Street in the Bronx (encl. 6A-D). The statements were generally consistent and are summarized below.

On October 11, 2012, at 6:30 p.m., § 87(2)(b) was sitting on a bench outside of 1160 East 229th Street in the Bronx with four friends. § 87(2)(b) was sitting on the back of the bench with his feet on the seat. They were not loud and were not fighting or playing around. PO Orvin Feliciano and PO Pablo Polanco of PSA8 drove up in a marked vehicle and asked § 87(2)(b) if he lived there. § 87(2)(b) said that he did. PO Feliciano and PO Polanco told him to get off the bench and to leave. § 87(2)(b) said that he did not have to leave because he lived there and his friends were his guests. The officers told him to get off the bench and put his hands behind his back. § 87(2)(b) got off of the bench, handed his phone to his friend, and put his hands behind his back. § 87(2)(b) asked why he was being arrested but did not resist. PO Feliciano and PO Polanco put § 87(2)(b) in the car. En route to the 47th Precinct stationhouse, § 87(2)(b) continued to ask why he was being arrested. PO Feliciano told him, "Shut the fuck up."

At the stationhouse, the officers brought him in front of the desk. § 87(2)(b) was not struggling and there were no problems at the desk. § 87(2)(b) was searched and then taken to a back room beyond the holding cells where PO Feliciano and PO Polanco had § 87(2)(b) remove his shoelaces and the strings on his pants. The strings would not come out and PO Polanco left to get scissors. § 87(2)(b) sat in a chair and was not handcuffed. PO Feliciano bent down over § 87(2)(b) and asked him if he was a tough guy. § 87(2)(b) told PO Feliciano to get out of his face. PO Feliciano head-butted § 87(2)(b) in the forehead. § 87(2)(b) asked why PO Feliciano had hit him and yelled for PO Feliciano not to hit him. PO Feliciano head-butted him a second time. § 87(2)(b) sustained a headache that stemmed from the center of his head. PO Polanco returned and cut the strings of § 87(2)(b)'s pants. § 87(2)(b) told PO Polanco that PO Feliciano had hit him and neither officer responded. The room is not visible from the holding cells.

§ 87(2)(b) was put in a holding cell. PO Joshua Valdez of the 47th Precinct, who § 87(2)(b) recognized in an IAB photo array and who was identified by name, came into the cell area and opened the holding cell door to take out a prisoner identified through investigation as § 87(2)(b). § 87(2)(b) looked at PO Valdez. PO Valdez said, "What the fuck are you looking at?" § 87(2)(b) told PO Valdez that he was the only one around so he was looking at him. PO Valdez took the prisoner to fingerprint him and closed the door. § 87(2)(b) repeatedly asked PO Valdez to get his PO Feliciano. PO Valdez said, "Shut the fuck up." § 87(2)(b) denied yelling while in front of the desk or in the holding cell but admitted that he was being annoying toward PO Valdez. PO Valdez opened the holding cell door and said, "What the fuck did I tell you? You think you're fucking tough? I'll fuck you up right here." § 87(2)(b) told PO Valdez that the camera was there and he should do it. PO Valdez closed the cell door.

About 15 minutes later, PO Feliciano returned to the cells and told § 87(2)(b) that he was being released. PO Feliciano took § 87(2)(b) to the back room and he retrieved his property. PO Feliciano rear handcuffed § 87(2)(b). PO Feliciano and PO Polanco were present. Twenty seconds later, PO Valdez ran into the room and asked what had happened now and if § 87(2)(b) thought he was tough. PO Valdez punched § 87(2)(b) in the right side of the head above his ear. PO Valdez said, "Do you think I'm fucking playing with you? I came from Iraq. I'll fucking kill you." PO Valdez head-butted § 87(2)(b) in the mouth, resulting in a laceration to the inside of his upper lip requiring three stitches, three chipped lower center teeth, and one pushed in right lower tooth. § 87(2)(b) screamed. PO Valdez said to § 87(2)(b) "I'm going to fuck you up," and pulled out his uniform shirt and started taking off his bullet proof vest. Additional officers ran into the room. § 87(2)(b) spit on the floor and told the officers that he was bleeding. An officer known through

investigation as Lt. Jose Bujosa of the 47th Precinct told someone to grab PO Valdez. Officers removed PO Valdez from the room.

Other officers in the room asked § 87(2)(b) what happened. § 87(2)(b) continued to spit and point out that he was bleeding from his lip. PO Feliciano and PO Polanco went to the bathroom in the back room and then cleaned up the floor. PO Feliciano and PO Polanco escorted § 87(2)(b) to the desk. At the desk, § 87(2)(b) told Lt. Bujosa what PO Valdez had done. Officers gave § 87(2)(b) two summonses for disorderly conduct and told him to leave the stationhouse.

§ 87(2)(b) walked directly home, which took approximately three minutes. On the way home, he saw three friends and told them that officers had just beaten him up in the stationhouse. He did not fight anyone on the way home and did not fall and injure himself.

Statements to Medical Personnel

On October 12, 2012, § 87(2)(b) spoke to Dr. § 87(2)(b), a dentist. He said that on October 11, 2012, an officer hit him with his head in the mouth and he started bleeding from the upper lip as a result.

CCRB Testimony and 50H Hearing Testimony

On October 19, 2012, § 87(2)(b) provided a telephone statement (encl. 7). On October 26, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 8A-J). On § 87(2)(b), § 87(2)(b) testified at a 50H hearing (encl. 11A-JJ). His statements were generally consistent with each other and his IAB statements, with additional information noted.

§ 87(2)(b) identified two of the friends with him outside of 1160 East 229th Street as § 87(2)(b) and § 87(2)(b) had just gotten home and had been there for five to 10 minutes. PO Feliciano, who § 87(2)(b) identified by name, and PO Polanco, who was identified through investigation, drove up to § 87(2)(b) and his friends in a marked vehicle and PO Feliciano told them to “get the fuck out.”

At the 47th Precinct stationhouse, § 87(2)(b) continued to ask why he was being arrested. PO Feliciano appeared angry and continued to tell him, “Shut the fuck up.” In the holding cells,

PO Valdez said, “Get up and fight me.” § 87(2)(b) said that he would not fight PO Valdez but that if PO Valdez wanted to do something, PO Valdez should hit him.

After being released, § 87(2)(b) went home and called 911. He was taken by FDNY ambulance to § 87(2)(b) Hospital for a headache and a cut to his lip. In addition to three stitches to his mouth, he was given a painkiller for the pain to his head. He has also since been treated by a dentist for chipped teeth.

Photos of § 87(2)(b)'s Injuries

On October 11, 2012, § 87(2)(b)'s mother, § 87(2)(b) took photos of § 87(2)(b)'s injuries. They show a laceration to § 87(2)(b)'s lip (encl. 10A-E).

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) old at the time of the incident, is a § 87(2)(b)

Statements to IAB and the CCRB

On October 13, 2012, § 87(2)(b) was interviewed over the telephone by Det. Himmelman of IAB (encl. 12). On February 12, 2013, § 87(2)(b) provided a telephone statement to the CCRB (encl. 13). His statements were generally consistent, except where noted.

While § 87(2)(b) was in the holding cells, § 87(2)(b) attempted to bait PO Valdez, who was fingerprinting § 87(2)(b) into a confrontation by saying that his friends were sleeping with his wife and mother. § 87(2)(b) went on for five to ten minutes. He also said that officers were not

smart and that he made more money than them selling drugs on the street. PO Valdez eventually said that this was the last time that he was going to tell the § 87(2)(b) to stop.

Several additional officers, including PO Stephen Russo of the 47th Precinct, who he identified by name, came into the holding cell area and told him to calm down. PO Valdez opened the gate to the holding cell. § 87(2)(b) stated to IAB that PO Valdez made a “show of force,” and described PO Valdez’ actions as putting his head and upper body into the cell toward § 87(2)(b) and getting in his face without making any physical contact to the CCRB. § 87(2)(b) got close to PO Valdez. § 87(2)(b) told IAB that PO Valdez pushed § 87(2)(b) back and closed the holding cell door, but did not repeat this to the CCRB. § 87(2)(b) added in his statement to the CCRB that PO Valdez yelled at § 87(2)(b) but did not curse at him. PO Valdez went back to fingerprinting § 87(2)(b). PO Valdez was visibly upset but continued fingerprinting § 87(2)(b).

PO Feliciano and PO Polanco came to the cell area and told § 87(2)(b) that he was being released. They took him out of the holding cell and put him up against the wall to handcuff him and then give him his belongings. § 87(2)(b) tensed up and the officers took him to the back room to talk to him. § 87(2)(b) kept saying that the officers should hit him, that there were cameras there, and that he was going to get a lawsuit out of this. § 87(2)(b) and two other men in the holding cells were talking amongst themselves and asked why § 87(2)(b) would not stop since the officers were not going to hit him. § 87(2)(b) then said that PO Valdez was also in the room with the prisoner and the housing officers. The argument was loud but not physical. Lt. Bujosa came and he and several other officers pulled PO Valdez out of the room, telling him that it was not worth it. The housing officers then took § 87(2)(b) out of the holding cell area.

§ 87(2)(b) did not see any injuries on § 87(2)(b) at any time. He did not see any officer punch, kick, or strike him. § 87(2)(b) added in his CCRB statement that he provided his contact information to Lt. Bujosa to be used if PO Valdez needed a witness because § 87(2)(b) assumed that § 87(2)(b) was going to file a lawsuit.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a* § 87(2)(b)

CCRB Testimony

On April 26, 2013, § 87(2)(b) provided a telephone statement (encl. 15). His statement was generally consistent with § 87(2)(b)s, except where noted.

§ 87(2)(b) was in the holding cells at the 47th Precinct stationhouse with § 87(2)(b). They found that they had some mutual friends. § 87(2)(b) asked PO Valdez to get PO Feliciano. § 87(2)(b) and PO Valdez argued and PO Valdez entered the holding cell.

PO Valdez and § 87(2)(b)s arresting officers took § 87(2)(b) to the back room because he was being released. They closed the door and § 87(2)(b) could hear § 87(2)(b) yell that the officers were punching him. When § 87(2)(b) walked out of the room, § 87(2)(b) could see blood on him but could not tell from where he was bleeding because § 87(2)(b) was wearing his hoodie. § 87(2)(b) observed officers cleaning up blood from the back room.

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a* § 87(2)(b)

IAB Statement (encl. 14)

On October 13, 2012, Det. Himmelman and Sgt. Kobetitsch interviewed § 87(2)(b) at 716 Penfield Street, in the Bronx. His statement was generally consistent with § 87(2)(b)s in that he did not witness any scuffle or see anyone on a injury. He heard an argument between § 87(2)(b)

§ 87(2)(b) and an officer, but it did not sound physical. An officer told § 87(2)(b) to calm down.

Other Civilians

IAB contacted § 87(2)(b), who was in the youth office at the time of occurrence. She could not see the holding cells and did not witness the incident (encl. 16).

Attempts to Contact Civilians

On December 28, 2012, a letter was mailed to § 87(2)(b) at an address obtained via a prior arrest under the assumption based on the address that this was the § 87(2)(b) to whom § 87(2)(b) referred. No phone number was available. The letter was not returned by the United States Postal Service. A search of the New York City Department of Correction Inmate Lookup Service on March 21, 2013, showed that § 87(2)(b) was not incarcerated. § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-h(3)

On December 28, 2012, a letter was mailed to § 87(2)(b) at an address obtained via a prior arrest under the assumption based on the address that this was the § 87(2)(b) to whom § 87(2)(b) referred. A subsequent search for § 87(2)(b) revealed an additional address to which a letter was mailed on February 19, 2013. Neither letter has been returned by the United States Postal Service. On February 27, 2013, March 21, 2013, and October 7, 2013, § 87(2)(b) was called at a phone number obtained from a prior arrest. On the third call, the respondent indicated that it was a wrong number. A search of the New York City Department of Correction Inmate Lookup Service on March 21, 2013, showed that § 87(2)(b) was not incarcerated.

NYPD Statements

Subject Officer: PO ORVIN FELICIANO

- *PO Feliciano, § 87(2)(b)*
- *On October 11, 2012, PO Feliciano worked from 3 p.m. to 11:35 p.m. He was assigned to sector CD with PO Pablo Polanco, was in uniform, and was the operator of a marked vehicle.*

Memo Book (encl. 17A-C)

At 6:30 p.m., PO Feliciano stopped § 87(2)(b) at 1160 East 229th Street for disorderly conduct. At 6:38 p.m., § 87(2)(b) was under arrest. At 7:20 p.m., § 87(2)(b) was released with two summonses.

Summons Numbers § 87(2)(b) and § 87(2)(b) (encl. 18)

§ 87(2)(b) was issued summonses numbers § 87(2)(b) and § 87(2)(b) for disorderly conduct – refusal to disperse and disorderly conduct – excessive noise, respectively.

CCRB Testimony (encl. 19A-E)

On April 10, 2013, PO Feliciano was interviewed at the CCRB.

On October 11, 2012, at 6:30 p.m., PO Feliciano and PO Polanco observed a group of several teenagers congregating in front of 1160 East 229th Street in the Bronx, talking and being loud enough to disturb the neighbors. § 87(2)(b) was standing on a bench. After observing the group for a few minutes, PO Feliciano drove up to the group. PO Feliciano advised § 87(2)(b) that if he continued to stand on the bench and act disorderly, PO Feliciano would ask the group to disperse. § 87(2)(b) was loud and said that he did not care and PO Feliciano could not tell him what to do. PO Feliciano told the group to disperse. PO Feliciano did not tell them to “get the fuck” out of there. Everyone complied except for § 87(2)(b) though they remained in the area.

PO Feliciano told § 87(2)(b) that he was going to issue him a summons for disorderly conduct

and asked § 87(2)(b) for ID. § 87(2)(b) got off of the bench but refused to provide ID and continued being loud. PO Feliciano told § 87(2)(b) that he was going to take him to the stationhouse if he continued being disorderly and asked him for his ID again. As PO Feliciano handcuffed § 87(2)(b) a crowd formed. PO Feliciano placed § 87(2)(b) into the vehicle.

PO Feliciano was shown video of part of the incident taken at 1160 East 229th Street on § 87(2)(b)'s phone. He had not seen § 87(2)(b) with his cell phone out and § 87(2)(b) did not give any items to his friends before being handcuffed. PO Feliciano listened to a statement by a man and a woman that officers had been cursing first and denied having cursed at the civilians. The woman was not part of the original group.

PO Feliciano took § 87(2)(b) to the 47th Precinct stationhouse to conduct a warrant check. PO Feliciano and PO Polanco did not speak to § 87(2)(b) but § 87(2)(b) repeated the same statements he had made earlier. § 87(2)(b) also said that he was going to sue the officers. § 87(2)(b) did not ask if or why he was under arrest. PO Feliciano did not say, "Shut the fuck up." § 87(2)(b) became more agitated in the RMP when PO Feliciano and PO Polanco ignored him.

At the 47th Precinct stationhouse, PO Feliciano brought § 87(2)(b) to the desk where Lt. Bujosa was the desk officer. § 87(2)(b) stood in front of the desk and repeated the same statements he had made at the scene. PO Polanco took § 87(2)(b) to a back room for a basic search before putting him in a cell while PO Feliciano conducted the warrant check. PO Feliciano was not in the back room, and from where he was doing the paperwork, PO Feliciano could not see or hear what was going on in the holding cells.

PO Feliciano was present when § 87(2)(b) retrieved his belongings before being released. There were some prisoners and one plainclothes officer fingerprinting a prisoner in the holding cell area, but no other officers. PO Feliciano did not know PO Valdez or recognize him in a photo. PO Feliciano did not see § 87(2)(b) in a dispute with any officer. PO Feliciano did not punch or head-butt § 87(2)(b) or make contact with his head and did not observe any other officer do so. PO Feliciano did not make physical contact with § 87(2)(b) other than handcuffing him. PO Feliciano never told § 87(2)(b) "Shut the fuck up." PO Feliciano never used any profanities and did not hear any other officer do so. § 87(2)(b) never complained of any injuries and PO Feliciano did not observe any injuries on § 87(2)(b). PO Feliciano was shown photos of the injury to § 87(2)(b)'s lip. He denied seeing the injury. § 87(2)(b) spoke to Lt. Bujosa briefly when he was released. Lt. Bujosa explained the summonses to § 87(2)(b)'s demeanor had not changed. § 87(2)(b) was in the stationhouse for approximately 25 minutes.

Subject Officer: PO JOSHUA VALDEZ

- *PO Valdez, § 87(2)(b)*
- *On October 11, 2012, PO Valdez worked from 3 p.m. to 11:35 p.m. He was assigned to a foot post alone and was in uniform.*

Memo Book (encl. 20A-C)

At 4:30 p.m., PO Valdez began arrest processing at the 47th Precinct stationhouse and at 9:00 p.m., he completed arrest processing.

CCRB Testimony (encl. 21A-C)

On April 2, 2013, PO Valdez was interviewed at the CCRB. PO Valdez did not recall this incident and did not recognize the photo of § 87(2)(b). There was nothing unusual during the processing of his arrest. He was not in the back room with anyone other than § 87(2)(b). He denied all interaction with anyone in the holding cells other than § 87(2)(b). He did not tell anyone in the holding cells that he was in the army. PO Valdez was a Marine and at the time of occurrence, wore a Marine Corp emblem pin on his uniform that was often recognized as such by civilians.

Witness Officer: PO PABLO POLANCO

- *PO Polanco, § 87(2)(b)*
- *On October 11, 2012, PO Polanco worked from 5:30 p.m. to 2:05 a.m. the next day. He was assigned to post 290 with PO Feliciano, was in uniform, and was assigned to a marked car.*

Memo Book (encl. 26A-C)

At 6:30 p.m., PO Polanco had § 87(2)(b) stopped in front of 1160 East 229th Street. At 6:38 p.m., § 87(2)(b) was under arrest for disorderly conduct and was issued two summonses.

CCRB Testimony (encl. 27A-D)

On April 11, 2013, PO Polanco was interviewed at the CCRB. His statement was generally consistent with PO Feliciano's, save for the noted discrepancies.

PO Polanco observed a crowd of five to ten teenagers under the scaffolding and observed § 87(2)(b) standing on a bench. The group was eating and throwing garbage around. The group was also very loud. There were no civilians around other than the members of that group. PO Polanco did not hear PO Feliciano say, "Get the fuck out of there," or, "Get the fuck off the bench." PO Polanco did not speak to § 87(2)(b) but assisted PO Feliciano in handcuffing § 87(2)(b).

PO Polanco viewed video of the interaction at 1160 East 229th Street. PO Polanco did not know to what the civilians were referring when they said that the officers cursed first.

§ 87(2)(b) did not calm down in the RMP. PO Polanco did not hear PO Feliciano say, "Shut the fuck up." § 87(2)(b) was told to be quiet by one of the officers.

In the stationhouse, § 87(2)(b) was still being disrespectful and cursing. Lt. Bujosa instructed PO Polanco and PO Feliciano to process § 87(2)(b)'s summonses and release him.

PO Polanco brought § 87(2)(b) to the back while PO Feliciano prepared the summonses. PO Polanco took § 87(2)(b) to the back room to remove his shoelaces. PO Feliciano was never in the back room with § 87(2)(b). PO Polanco was the only officer in the room with § 87(2)(b).

§ 87(2)(b) cursed while being put in the holding cell. PO Polanco did not know if § 87(2)(b) interacted with any other officer because after he put § 87(2)(b) in the holding cell, he left. PO Polanco did not hear any officer tell § 87(2)(b) to fight him or hear any officer use profanity toward § 87(2)(b). He did not hear any officer threaten to kill § 87(2)(b).

PO Polanco initially stated that PO Feliciano went back to the holding cells with him when he went to release § 87(2)(b) but later stated that he took § 87(2)(b) back to retrieve his property by himself and did not recall receiving any assistance.

PO Polanco did not observe any officer punch or head-butt § 87(2)(b). PO Polanco viewed photos of § 87(2)(b)'s injuries. He did not recall seeing the injuries on § 87(2)(b). PO Polanco did not observe any officer make contact with § 87(2)(b)'s head.

Witness Officer: LT JOSE BUJOSA

- *Lt. Bujosa, § 87(2)(b)*
- *On October 11, 2012, Lt. Bujosa worked from 2 p.m. to 10:45 p.m. He was the platoon commander and desk officer and was in uniform.*

Memo Book (encl. 23A-B)

Lt. Bujosa noted his assignment as the desk officer and as such, maintained the Command Log.

IAB Call-Out Statement (encl. 24)

On October 12, 2012, Lt. Bujosa informed IAB that he observed § 87(2)(b) yelling, acting

crazy, and starting fights with officers and prisoners in the holding cells. § 87(2)(b) mentioned something about having a lawsuit by the end of the night.

CCRB Testimony (encl. 25A-D)

On April 9, 2013, Lt. Bujosa was interviewed at the CCRB. His statement was generally consistent with PO Feliciano's and PO Polanco's to the extent he was present.

Lt. Bujosa was at the desk at the 47th Precinct stationhouse when PO Feliciano and PO Polanco brought in § 87(2)(b) was very boisterous and was verbally fighting with the officers and moving his upper body away from the officers. He told the officers to get control of § 87(2)(b) and get him out of the stationhouse as quickly as possible.

The officers took § 87(2)(b) to the holding cells. Lt. Bujosa did not see or hear what happened in the holding cells. Lt. Bujosa did not recall whether PO Valdez was in the holding cells. Lt. Bujosa did not recall hearing § 87(2)(b) screaming from the holding cells and did not go to the holding cell area in regards to any commotion. Lt. Bujosa next interacted with § 87(2)(b) as he was leaving the stationhouse, when he explained the summonses. After § 87(2)(b) received his summonses, he ran out of the stationhouse. Lt. Bujosa did not see any injuries on § 87(2)(b).

Lt. Bujosa did not see PO Valdez interact with § 87(2)(b). Lt. Bujosa did not remove PO Valdez from any interaction with any civilian. Lt. Bujosa did not see any officer punch or head-butt § 87(2)(b). Lt. Bujosa did not hear PO Valdez say, "Get up and fight me," or, "I came from the fucking Army. I was in Iraq. I'm going to fucking kill you," and did not hear any officer use profanities toward § 87(2)(b).

Additional Officer Interviewed

On April 4, 2013, PO Russo was interviewed. He did not recall the incident or recognize § 87(2)(b) in a photo. He was at the stationhouse at the time of occurrence (encl. 22A-E).

Medical Records

Ambulance Call Report (encl. 28; see medical records)

On October 11, 2012, § 87(2)(b) told EMTs that he had been hit in the face and lip. He had minor swelling to his upper lip and a half inch laceration, with no bleeding. He was diagnosed with a soft tissue injury.

§ 87(2)(b) (encl. 29; see medical records)

On § 87(2)(b), § 87(2)(b) was observed to have a swollen upper lip. An x-ray shows two broken teeth. He complained of pain to all upper and lower teeth. He was prescribed a painkiller and an antibiotic. § 87(2)(b) had two follow-up visits.

NYPD Documents

47th Precinct Command Log (encl. 30A-C)

§ 87(2)(b) was logged in at 6:35 p.m. and logged out at 7:15 p.m. No injuries are noted on § 87(2)(b) was in the stationhouse from 3:45 p.m. to 8:35 p.m. § 87(2)(b) was in the stationhouse at 3:55 p.m. and released on a desk appearance ticket at an unknown time. § 87(2)(b) was in the stationhouse from 4:20 p.m. to 1:45 a.m. (under the name Sean Mantock).

Summonses for Incident and Disposition

- As of September 26, 2013, the Office of Court Administration has no record of the summonses issued in regards to this incident (encl. 32A-B).

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim on § 87(2)(b), claiming assault, battery, false arrest, emotional distress, physical pain and injury, illegal search and seizure without a valid arrest or search warrant, a violation of civil rights, negligent hiring, retention, and supervision, loss of liberty, loss of dignity and reputation, and malicious prosecution and seeking \$1,000,000 as redress (encl. 33A-B). A 50H hearing was held on § 87(2)(b)

§ 87(2)(b)

■

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. 2A-B).

Subject Officers CCRB History

- PO Feliciano has been a member of the service for six years and there are two substantiated CCRB allegations against him (encl. 1A-B).
 - In case number 200906048, a question allegation was substantiated. The NYPD declined to prosecute.
 - In case number 200909919, a stop allegation was substantiated and charges were recommended. PO Feliciano received instructions.
- PO Valdez has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 1C).

Conclusion

Identification of Subject Officers

- § 87(2)(b) identified PO Feliciano and PO Valdez by name and identified them in IAB photo arrays and PO Feliciano admitted to interacting with § 87(2)(b) who PO Valdez arrested, confirmed that he and PO Valdez were present in the holding cells at the same time as § 87(2)(b)'s statement to that effect is corroborated by the command log and prisoner holding pen roster. Therefore, allegations A and B are pleaded against PO Feliciano and allegations C, D, and E are pleaded against PO Valdez.

Investigation Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) was issued a summons for disorderly conduct, the same charge for which he was stopped. Therefore, no stop allegation is pleaded.

Allegation A – Discourtesy: At 1160 East 229th Street in the Bronx, en route to the 47th Precinct stationhouse, and at the 47th Precinct stationhouse, PO Orvin Feliciano spoke discourteously to § 87(2)(b)

Allegation B – Force: At the 47th Precinct stationhouse, PO Orvin Feliciano used physical force against § 87(2)(b)

Allegation D – Force: At the 47th Precinct stationhouse, PO Joshua Valdez used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Feliciano told him to “get the fuck out of here” when first approaching him and to “shut the fuck up” in the police vehicle when he asked why he was being arrested. He also alleged that at the stationhouse PO Feliciano head-butted him in the forehead and

told him to “shut the fuck up.” He stated that while in the back room outside the holding cells, PO Valdez head butt him in the forehead and punched him in the jaw, causing a laceration to his lip and chipped teeth. He denied that these injuries were sustained after he left the stationhouse. Medical records and photographs corroborate § 87(2)(b)'s injuries and the video shows that § 87(2)(b) did not have any existing injuries.

PO Feliciano and PO Valdez denied these actions. PO Valdez did not recall any aspect of the interaction and did not recognize a photo of § 87(2)(b). PO Polanco denied witnessing these allegations and stated that PO Feliciano was never in the back room with § 87(2)(b). PO Russo did not recall being present.

§ 87(2)(g)

As noted above, § 87(2)(b) and § 87(2)(b) did not contact the CCRB.

§ 87(2)(b), § 87(2)(g)

Allegation C – Discourtesy: At the 47th Precinct stationhouse, PO Joshua Valdez spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that while he was in the holding cells, PO Valdez challenged him to a fight and told him to “shut the fuck up,” and used other profanities. PO Valdez denied making these statements and PO Feliciano, PO Polanco, and Lt. Bujosa denied hearing him do so.

§ 87(2)(b), § 87(2)(g)

Team: 2

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date